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Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Gibraltar

Working paper prepared by the Secretariat

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Note: The information contained in the present working paper has been derived from information transmitted to the Secretary-General by the administering Power under Article 73 *e* of the Charter of the United Nations as well as information provided by the Government of Spain and that available in public sources, including those of the territorial Government. Information was transmitted by the administering Power on 18 December 2017. Further details are contained in previous working papers, available from www.un.org/en/decolonization/workingpapers.shtml.

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I. General

1. Gibraltar is a Non-Self-Governing Territory administered by the United Kingdom of Great Britain and Northern Ireland. According to the administering Power, the basis of the current relationship between the Government of the United Kingdom and its Non-Self-Governing Territories is enshrined in the constitution of each Territory; sovereignty over Gibraltar was ceded to the United Kingdom by Spain under the Treaty of Utrecht in 1713, with territorial waters flowing from sovereignty over the land. For its part, Spain claims that, under article 10 of the Treaty, it ceded only the city and castle of Gibraltar, its port, defences and fortresses. Against the backdrop of its long-standing appeal to Spain and the United Kingdom to hold talks on the question of Gibraltar (see resolution 2070 (XX), adopted on 16 December 1965), in 2017, the General Assembly, in its decision 72/520, among other things, urged the Governments of Spain and the United Kingdom, while listening to the interests and aspirations of Gibraltar that were legitimate under international law, to reach, in the spirit of the Brussels Declaration of 27 November 1984, a definitive solution to the question, in the light of the relevant resolutions of the Assembly and applicable principles, and in the spirit of the Charter of the United Nations (see sects. VIII to X below).

2. The Territory is a narrow peninsula extending southward from the south-western coast of Spain, to which it is connected by an isthmus of approximately 1.6 km. The Spanish port of Algeciras lies 8 km across the bay to the west, and the continent of Africa is situated 32 km across the Strait of Gibraltar to the south. According to the administering Power, the area of Gibraltar is 5.8 km^2; according to Spain, which claims sovereignty over the Territory, it is 4.8 km^2. Issues relating to the isthmus and waters off Gibraltar continue to be a subject of contention.

3. In 2017, the population of the Territory was 33,573. The currency of the Territory is the Gibraltar pound, circulating at par with the pound sterling. The Territory's main trading and commercial transactions are with European countries, the United States of America and North African countries. The British Overseas Territories Act 2002 provides for the granting of British citizenship to citizens of British overseas territories.

II. Constitutional, legal and political issues

4. Under the Gibraltar Constitution Order 2006, the Government of Gibraltar consists of the elected ministers represented in the Council of Ministers together with the British Crown, who is represented in Gibraltar by the Governor. Lieutenant General Edward Davis has been the Governor since January 2016. In accordance with the 2006 Constitution, the Governor is responsible for the conduct of external affairs, defence, internal security (including the police, in conjunction with the Gibraltar Police Authority) and for certain appointments to public office as conferred on him by it. The elected Government of Gibraltar is responsible for all other matters.

5. Following an election, the Governor appoints a Chief Minister, who is the elected member of the Gibraltar Parliament who, in the Governor's judgment, is most likely to command the greatest measure of confidence among the members of the Parliament. Other ministers are appointed by the Governor, acting in accordance with the advice of the Chief Minister, from among the elected members of the Parliament. In accordance with the 2006 Constitution, the Parliament may make laws for the peace, order and good government of Gibraltar, while the British Crown retains full

power to make laws from time to time for the same above-mentioned purposes. According to the administering Power, such powers have not been exercised by the British Crown since the 2006 Constitution came into force. The 2006 Constitution also makes provisions regarding Crown lands in Gibraltar.

6. Gibraltar has a supreme court allowing for appeals to a court of appeal and subsequently to Her Majesty in Council, acting on the advice of the Judicial Committee of the Privy Council.

7. The Gibraltar Socialist Labour Party/Liberal Party of Gibraltar alliance headed by Fabian Picardo won the general elections held on 26 November 2015 with 68 per cent of the votes, winning 10 seats in the Parliament, against 31 per cent for the Gibraltar Social Democrats, which won the remaining 7 seats, with 0.6 per cent of votes rejected. Mr. Picardo was re-elected as Chief Minister. The next election is expected to be held in 2019.

8. Under the 2006 Constitution, it is recognized that, without prejudice to the administering Power's ultimate responsibility for Gibraltar's compliance with European Union law, matters that are the responsibility of the elected ministers shall not cease to be so even though they arise in the context of the European Union. Following the creation of a new electoral region, for the purposes of the European parliamentary elections only, consisting of Gibraltar and the south-western region of England (known as the "combined region"), Gibraltarians took part in European parliamentary elections for the first time in June 2004, and again in June 2009 and in May 2014. Voters in Gibraltar participated in the referendum on the membership of the United Kingdom in the European Union, on 23 June 2016, and 96 per cent voted to remain in the European Union. At the sixth meeting of the Overseas Territories Joint Ministerial Council, held in London on 28 and 29 November 2017, the United Kingdom reaffirmed that it was responsible for representing the priorities of the overseas territories in exit negotiations and that a clear objective of the negotiations was to achieve an agreement that worked for all parts of the United Kingdom family.

9. The United Kingdom continues to believe that, as a separate Territory recognized by the United Nations and included since 1946 in its list of Non-Self-Governing Territories, Gibraltar enjoys the individual and collective rights accorded by the Charter of the United Nations. The United Kingdom also believes that the people of Gibraltar enjoy the right of self-determination. The administering Power is clear that the 2006 Constitution sets out the relevant competences for the Governments of the United Kingdom and Gibraltar.

10. For its part, the Government of Spain maintains the position that the 2006 Constitution does not affect the international capacity of Gibraltar; that its adoption was a reform of the colonial regime, which remains unaltered; and that it did not affect in any way the pending decolonization process of Gibraltar, to which the principle of territorial integrity applies, not that of self-determination, as stated in General Assembly resolution 2353 (XXII). In that context, the Government of Spain stresses that the participation of Gibraltar in any international instrument must be made through the United Kingdom as the administering Power responsible for the international relations of the Territory, including in the fields of international financial services, human rights and the environment.

III. Budget

11. According to the administering Power, as at March 2017, the revenue of the territorial Government for the fiscal year 2016/17 was £653.8 million and its expenditure stood at approximately £598.0 million. For the fiscal year 2017/18, the territorial Government estimated its overall government revenue at £614.9 million, with an overall government expenditure budget of £596.6 million. Of the estimated revenue in 2017/18, income taxes represent the largest share (45 per cent), followed by duties, taxes and other receipts (28 per cent). In addition, the territorial Government approved £64.7 million in expenditure on capital projects for 2017/18, to be funded through the Improvement and Development Fund, an increase from £47.7 million in 2016/17.

12. The Government of Spain recalls that the European Commission has been carrying out an investigation into the tax regime of Gibraltar. Spain considers that Gibraltar is a tax haven and that under that regime the profits obtained abroad by companies registered in Gibraltar are not subject to taxation. In October 2016, the European Commission decided to extend its ongoing investigation into Gibraltar's corporate tax regime to the latter's practice of granting tax rulings to some companies.

13. On the other hand, the administering Power maintains that Gibraltar adheres to all relevant European Union directives in relation to financial supervision and regulation, direct taxation and the fight against money-laundering.

IV. Economic conditions

A. General

14. Gibraltar has no known natural resources and lacks agricultural land. The economy has increasingly focused on tourism and the provision of financial services, including banking, insurance, shipping and portfolio management, in addition to online gaming. The forecast gross domestic product (GDP) of Gibraltar grew to £1.907 billion in 2016/17, with an estimated GDP per capita of £56,612. The preliminary estimate of GDP for the period 2015/16 is £1.75 billion, increasing by 8.5 per cent (£137.5 million) from 2014/15.

15. Before 1980, the economy was largely dependent on expenditure by the Ministry of Defence of the United Kingdom. According to the administering Power, the situation changed dramatically over the years as United Kingdom military spending went from accounting for 60 per cent of the Gibraltarian economy to accounting for less than 6 per cent. Furthermore, according to the administering Power, in 2017, the Ministry of Defence employed some 500 local civilians and 350 regular and reserve personnel of the Royal Gibraltar Regiment.

B. Banking and financial services

16. According to the administering Power, Gibraltar has a well-developed private financial sector that is regulated by the Financial Services Commission. The regulatory scope extends to all forms of financial services, and Gibraltar's legislation, systems and administrative practices, which, in the view of the administering Power, are in full compliance with its European Union obligations, have been independently tested through reviews conducted by the Financial Action Task Force, the

International Monetary Fund and others. Gibraltar is also participating in the national risk assessment and peer review process of the Task Force.

17. Tax evasion is a predicate offence for money-laundering and subject to the reporting of suspicious transactions. The Financial Intelligence Unit of Gibraltar, as a member of the Egmont Group of Financial Intelligence Units, systematically shares information with other members of the Group. According to the administering Power, Gibraltar has agreements on the exchange of tax information with 104 countries and territories, of which 88 are in force, including with Austria, Belgium, Denmark, Finland, France, Germany, Ireland, Italy, Malta, the Netherlands, Poland, Portugal and Sweden. Since September 2015, tax information has been provided to the United States, the first country with which Gibraltar had made such an agreement, in accordance with the Foreign Account Tax Compliance Act agreement on the automatic exchange of information, and, since September 2016, with the United Kingdom under a similar agreement, the International Co-operation (Improvement of International Tax Compliance) (United Kingdom) Regulations 2015. Regulations for the automatic exchange of information with member States of the European Union, the International Cooperation (Improvement of International Tax Compliance) Regulations 2015, came into force in January 2016 in order to fulfil the requirements of the Common Reporting Standard of the Organization for Economic Cooperation and Development (OECD). Furthermore, the Fourth Anti-Money Laundering Directive of the European Union and the register of beneficial ownership came into force in the Territory on 26 June 2017.

18. On 14 October 2015, the Committee of Ministers of the Council of Europe adopted a resolution by which it agreed to the request of the United Kingdom on behalf of Gibraltar to provide for the evaluation of Gibraltar by the Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism. Furthermore, in the communiqué adopted at the sixth meeting of the Overseas Territories Joint Ministerial Council, the overseas territories and the United Kingdom welcomed the progress made by the overseas territories with financial centres in implementing the arrangements set out in the exchange of notes on law enforcement exchange of beneficial ownership information, including establishing new and secure systems for the collection, exchange and use of beneficial ownership data, where they did not already exist. The Joint Ministerial Council also welcomed the cooperation of overseas territories in international efforts to promote tax transparency and tackle financial crime. It reiterated its commitment to showing leadership in tackling corruption.

19. The Government of Spain recalls that the European Anti-Fraud Office of the European Commission concluded in a 2014 report that there was reason to believe that crimes of tobacco smuggling and money-laundering from Gibraltar had been committed, affecting the financial and other interests of the European Union.

20. The administering Power indicates that legal opinions have since been obtained by the Government of Gibraltar which suggest that allegations in the report of the Office were unfounded.

C. Transportation

21. Enhancements to road transportation arrangements in and out of Gibraltar were agreed upon at talks held in Córdoba, Spain, in 2006. They included the introduction at the fence/frontier of lanes in both directions, and red and green channels for both people and vehicles. Proportionate customs and police checks remain necessary,

given that Gibraltar does not belong to the common customs territory of the European Union. Moreover, the United Kingdom and Gibraltar do not belong to the Schengen area for external border control purposes. In the view of the administering Power, since 26 July 2013, the Government of Spain has at times imposed disproportionate and time-consuming checks at the border between Gibraltar and Spain; while the situation has improved relative to the third quarter of 2013, it remains unpredictable.

22. The European Commission has dispatched three technical fact-finding missions to La Línea de la Concepción and Gibraltar, in September 2013, July 2014 and October 2015. The Commission issued recommendations to the authorities of the United Kingdom and Spain following its first two missions.

23. Spain stresses that the checks at the fence are carried out only to ensure strict compliance with legislation of Spain and the European Union, in particular the Schengen Borders Code and its procedures, and are in no manner politically motivated. The checks are essential for Spain to fulfil its obligations vis-à-vis the whole of the European Union and are especially necessary given that illicit trafficking of various forms is common in the area and that Gibraltar is neither in the Schengen area nor in the European Union Customs Union. Moreover, Spain underlines that the police and customs checkpoint at La Línea de la Concepción (the fence) does not correspond to the demarcation of the border recognized by Spain in accordance with the Treaty of Utrecht. Spain further stresses that it has fully complied with the recommendations of the European Commission regarding the management at the fence of the flow of persons, vehicles and goods and, in 2015, completed the restructuring of the customs checkpoint and the installation of 13 automatic electronic passport-reading machines in each direction, which has made transit more fluid.

24. The United Kingdom continues to be responsible for all international obligations relating to aviation safety and security in respect of the airport, a military airfield available for civilian flights, with the Ministry of Defence retaining ownership of and operational responsibility for the military aviation aspects of the airfield. According to the administering Power, legislation enacted by the Gibraltar Parliament provides for civil aviation safety and security, making civil aviation a responsibility of the Government of Gibraltar. Such responsibility continues to be rejected by Spain. Spain holds the position that the occupation by the United Kingdom of the isthmus on which the airfield was built is illegal and that it does not comply with public international law because it is not included among the areas ceded by the Treaty of Utrecht. For its part, the United Kingdom maintains that its sovereignty extends over the whole territory of Gibraltar, including its airspace and territorial sea.

25. The Strait of Gibraltar is a principal water route; the Territory's port facilities are used by many long-distance liners and cargo ships. According to the United Kingdom, it applies a three-nautical-mile area for British Gibraltar territorial waters (or less where the median line with other territorial waters applies), in line with the United Nations Convention on the Law of the Sea. According to Spain, it exerts its sovereign rights and jurisdiction over its territorial waters, including all maritime areas around Gibraltar (with the only exception being its port facilities).

26. The administering Power regularly challenges Spanish State vessels and protests to the Government of Spain about illegal incursions into British Gibraltar territorial waters by Spanish State vessels, citing articles 17 to 19 of the United Nations Convention on the Law of the Sea, on the meaning of innocent passage, and the Convention on the International Regulations for Preventing Collisions at Sea.

27. For its part, Spain states that what the United Kingdom describes as "illegal incursions" by Spanish vessels are routine activities of its ships in Spanish waters.

D. Tourism

28. The tourism sector recorded 10.1 million visitors in 2016, compared with 10.2 million visitors in 2015, a decrease of 0.6 per cent, marking the fifth year with a decrease (since 2012). Visitors by air (around 231,000) and by sea (around 421,000, mostly cruise passengers) increased in 2016, compared with 2015 (188,000 and 358,000, respectively), whereas visitors by land decreased slightly (approximately 9,464,000 in 2016, compared with 9,626,000 in 2015). Furthermore, according to the territorial Government, air arrivals in the first quarter of 2017 continued to increase by almost 14 per cent, compared with the same period in 2016.

V. Social conditions

A. Labour

29. In 2016, there were 27,073 jobs in the Territory, compared with 26,144 in 2015, an increase of 3.6 per cent. According to the administering Power, as at October 2016, the distribution of jobs among the five largest industrial sectors was 3,716 in banking and finance, 3,494 in gambling and betting, 3,145 in building and construction, 2,717 in retail and wholesale trade and 2,403 in health and social work; the unemployment rate stood at 1.79 per cent of the resident population and 1.31 per cent of the total workforce, which included frontier workers.

B. Social security and welfare

30. The social security and welfare sectors in Gibraltar continue to be governed by various social security acts, as mentioned in previous working papers, covering areas such as employment injury, disablement and industrial death benefits, unemployment benefits, maternity grants and allowances, death grants, old-age pensions, survivor's benefits and guardian's allowances.

C. Public health

31. The Gibraltar Health Authority, a department of the territorial Government, is responsible for providing health care in the Territory. The territorial Government continues to cope with the needs of older persons.

D. Education

32. Education in Gibraltar is free and compulsory for children between 4 and 15 years of age. The language of instruction is English. Public education comprises 11 primary and 2 secondary schools, in addition to the Gibraltar College of Further Education and the Vocational Training Centre, serving more than 5,000 students. The Territory's literacy rate is assumed to be nearly 100 per cent. The University of Gibraltar officially opened in September 2015 and 278 students (66 per cent women, 34 per cent men) were enrolled in the 2015/16 academic year.

33. According to the administering Power, government expenditure on education during the fiscal year ending in March 2017 was around £47.4 million, of which expenditure on improvements to school buildings accounted for approximately £1.7 million. In the 2017/18 budget, £49.84 million was allocated to education. Students who obtain a place at a university in the United Kingdom are entitled to scholarships from the Government of Gibraltar. In 2017, 1,041 students attended universities in the United Kingdom.

E. Crime and public safety

34. Law enforcement in the Territory is the responsibility of the Royal Gibraltar Police, in conjunction with the Gibraltar Police Authority. The Governor has overall, ultimate responsibility for the integrity, probity and independence of policing in Gibraltar and for the policing aspects of national security, including internal security.

35. According to the administering Power, the Royal Gibraltar Police had a budget of £15.25 million in 2016/17, providing for 239 officers and 36 support staff. In 2015/16, there were 3,318 crimes recorded by the Royal Gibraltar Police.

F. Human rights

36. The following major international human rights instruments apply in Gibraltar: International Covenant on Economic, Social and Cultural Rights; International Covenant on Civil and Political Rights; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and European Convention for the Protection of Human Rights and Fundamental Freedoms. The 2006 Constitution includes a chapter on the fundamental rights and freedoms of the individual. According to the administering Power, the Government of Gibraltar formally requested the extension of the Convention on the Elimination of All Forms of Discrimination against Women to the Territory in 2013 and of the Convention on the Rights of the Child in 2016. In addition, in October 2016, the Gibraltar Parliament adopted the Civil Marriage Amendment Act 2016, which made provision for same sex marriage.

37. In the communiqué adopted at the sixth meeting of the Overseas Territories Joint Ministerial Council, the United Kingdom and the overseas territories reiterated their commitment to high standards in public life supporting and developing open and transparent institutions for democracy. They committed themselves to ensuring the political, economic, social and educational advancement of the people of the territories and their just treatment and protection from abuses. They discussed their shared resolve to continue to promote respect for human rights and compliance with international obligations in the territories and welcomed the constructive engagement of the territories in the preparations for the universal periodic review process of the Human Rights Council in that regard.

VI. Environment

38. In the communiqué adopted at the sixth meeting of the Overseas Territories Joint Ministerial Council, the United Kingdom and the overseas territories committed themselves to continuing the practice of mutual engagement ahead of international forums on climate change, to ensure that the views and priorities of the overseas

territories were fully reflected in negotiations. It was agreed that a representative from the territories would attend the twenty-fourth session of the Conference of the Parties to the United Nations Framework Convention on Climate Change, to be held in Katowice, Poland, from 3 to 14 December 2018, as part of the delegation of the United Kingdom. The United Kingdom reiterated its commitment to working with the overseas territories on the issue of the application of treaties concerning climate change to the territories, including taking forward the work to extend its ratification of the Doha Amendment to the Kyoto Protocol to those territories that had indicated their readiness for it, and through initial consultation with territories that had an interest in participating in meetings concerning the Paris Agreement to be held in the first half of 2018.

39. Spain considers it important for the Gibraltarian authorities to build a sewage treatment plant, in compliance with the law of the European Union, and recalls that, in its judgment of 4 May 2017 in *European Commission v. United Kingdom*, the European Court of Justice declared that the United Kingdom had failed to fulfil its obligations under the European Union directive on urban wastewater treatment, in Gibraltar.

40. According to the administering Power, the territorial Government had commenced a process to award the contract for the construction and operation of a wastewater treatment plant in Gibraltar. The process took longer than expected due to requirement to source the necessary technology for the operation of a system to process seawater, rather than drinking water.

VII. Forum for Dialogue on Gibraltar

41. Negotiations between the United Kingdom and Spain on the subject of Gibraltar led, in 2004, to the establishment of the trilateral Forum for Dialogue on Gibraltar. Since 2010, no meetings have been held. From 2012 to 2017, the United Kingdom expressed the desire to continue with the Forum and, in the interim, offered an informal, ad hoc dialogue involving, as appropriate, all relevant parties to the issues under discussion. Spain expressed the position that the Forum no longer existed and should be replaced with a new "ad hoc" mechanism for local cooperation in the interest of social well-being and regional economic development, in which the people of the Campo de Gibraltar and Gibraltar were represented. No ad hoc talks had been convened as at December 2017.

VIII. Future status of the Territory

A. Position of the administering Power

42. At the 2nd meeting of the Special Political and Decolonization Committee (Fourth Committee) of the General Assembly, on 2 October 2017, in a statement in exercise of the right of reply, the representative of the United Kingdom said that her Government recalled its sovereignty over Gibraltar and the territorial waters surrounding it and reaffirmed that, as a separate Territory recognized by the United Nations, Gibraltar enjoyed the rights accorded to it under the Charter of the United Nations, including the right to self-determination. She further stated that the 2006 Constitution of Gibraltar, which had been endorsed by the people of Gibraltar in a referendum, provided for a modern and mature relationship between Gibraltar and the United Kingdom.

43. She also stated that her Government would not enter into arrangements under which the people of Gibraltar would pass under the sovereignty of another State against their freely and democratically expressed wishes and would not enter into a process of sovereignty negotiations with which they were not content. The United Kingdom was committed to safeguarding Gibraltar, its people and its economy.

44. The representative went on to say that the United Kingdom was firmly committed to the Trilateral Forum for Dialogue, which was the most credible means of strengthening relations between the United Kingdom, Gibraltar and Spain for the benefit of all parties. She concluded that constructive and responsive engagement at the political level would enhance local cooperation and that it was therefore regrettable that Spain had formally withdrawn from those talks in 2012 (see A/C.4/72/SR.2).

45. At the 6th meeting of the Fourth Committee, on 6 October 2017, in a statement in exercise of the right of reply, the representative of the United Kingdom said that Gibraltar had a vigorous parliamentary democracy of its own and was responsible for everything apart from foreign affairs, defence and internal security. She stated that it was still the position of her Government that the fundamentals of their constitutional relationship were correct, although it was open to a dialogue on proposals put forward by Gibraltar.

46. She further stated that on financial, taxation and money-laundering matters, Gibraltar complied with all applicable European Union directives and shared information systematically and spontaneously with all other members of the Egmont Group of Financial Intelligence Units and with OECD. She said that the European Commission had recognized the commitment that the Government of Gibraltar had made to tackle cigarette smuggling between Gibraltar and Spain, as well as the significant steps that it had already taken, and that the Government of Gibraltar had repeatedly made clear its desire to work more closely and directly with its Spanish counterparts to deal with the issue (see A/C.4/72/SR.6).

47. At the 8th meeting of the Fourth Committee, on 9 October 2017, the representative of the United Kingdom stated that, as the United Kingdom negotiated to leave the European Union, it was fully committed to taking into account the priorities of the overseas territories, including Gibraltar, adding that the United Kingdom-Overseas Territories Joint Ministerial Council on European Union Negotiations had been created to discuss Territory priorities and agree on further areas for collective engagement and that a separate Council on Gibraltar-European Union Negotiations, for discussing Gibraltar priorities and agreeing on shared and substantive programmes of work, had already held four meetings.

B. Position of the territorial Government

48. At the 3rd meeting of the Fourth Committee, on 3 October 2017, the Chief Minister of Gibraltar said, inter alia, that fifty years earlier, the people of Gibraltar had voted in a referendum organized by its administering Power, choosing to remain British by an overwhelming 99 per cent majority. Although the Government of Spain at the time had deemed the referendum illegal, the United Kingdom had in fact been advancing the right to self-determination in accordance with the principles of the Charter of the United Nations and the relevant General Assembly resolutions. Gibraltar remained British exclusively as a result of the free and fair choice of its people. In 2002, Gibraltar itself had organized a referendum, on whether or not to accept an offer of joint sovereignty with Spain, and the Government of Spain had

again ruled that the referendum was illegal and the people had once again voted overwhelmingly in favour of remaining entirely British.

49. He also stated that the environment of peaceful co-existence and respect in which both referendums had taken place was reflective of life in Gibraltar and the Territory's relationship to the United Kingdom. Gibraltar complied with all international criteria on prudential supervision, transparency and exchange of information in the field of financial services, as well as with the rules regarding the exchange of tax information and fiscal transparency outlined by OECD. He further stated that, while Gibraltar had similarly offered to exchange tax information with Spain, the Government of Spain did not recognize the existence of Gibraltar and had therefore refused to sign the tax agreement.

50. Furthermore, he stated that Spain was not complying with the Charter when it failed to respect the rights of the people of Gibraltar to freely determine their status. Even though it would leave the European Union alongside the United Kingdom, Gibraltar sought to maintain a strong relationship of trade, friendship, cooperation and security with Spain and Europe based on mutual respect and economic benefit. His Government was ready to work with Spain on matters that would not compromise its sovereignty, jurisdiction or control.

51. He concluded by saying that it was important to recognize that 7,000 cross-border workers came to Gibraltar from Spain every day and significantly contributed to its success. He stated that they and all others who crossed what would become the international external frontier of the European Union must be able to continue to cross freely once Gibraltar had left the European Union and that the people of Gibraltar did not respond well to threats regarding such matters and would never give up their right to sovereignty (see A/C.4/72/SR.3).

C. Position of the Government of Spain

52. At the 3rd meeting of the Fourth Committee, on 3 October 2017, the representative of Spain stated that the continued status of Gibraltar as the last colony in Europe was all the more lamentable since the administering Power, the United Kingdom, was a Spanish ally in many other areas. She said that, under the Treaty of Utrecht, Spain had ceded to the United Kingdom only the town and castle of Gibraltar, together with its port, fortifications and forts, without ceding territorial waters or territorial jurisdiction; yet, ignoring the terms of that Treaty, the United Kingdom had illegally occupied the isthmus and surrounding waters. She further stated that the British occupation was contrary to international law and violated the integrity of Spanish territory and that therefore Spain would continue to request restitution until decolonization had been completed.

53. She went on to say that the General Assembly and the Fourth Committee had mandated Spain and the United Kingdom to begin negotiations on ending the colonial situation, specifying in a series of resolutions that the decolonization of Gibraltar must be governed by the principle of territorial integrity rather than the principle of self-determination, and setting 1 October 1969 as the deadline for decolonization. She stated that, nevertheless, the United Kingdom had often taken steps contrary to decolonization, such as the holding of a referendum on questions of sovereignty in 1967, and that fifty years had since passed, but there was nothing to celebrate given that no progress had been made.

54. She further stated that the presence of a colony within Spain produced harmful effects beyond the political sphere. She said that Gibraltar's special tax regime distorted the region's economy to the detriment of the Treasuries of Spain and the European Union and that the unfair advantage it provided to the economy of the Rock gave rise to dangerous organized crime specialized in the transborder smuggling of tobacco. She stated that the Gibraltarian authorities should use some of their considerable wealth to protect the environment by building a sewage treatment plant, rather than discharging sewage into the sea.

55. She also stated that Spain had nevertheless consistently remained open to dialogue and the previous year had formally invited the United Kingdom to open negotiations on a system of joint sovereignty. She said that, while Spain would never relinquish its just claim for a definitive solution to the question of Gibraltar in line with the relevant General Assembly resolutions and the Charter of the United Nations, its proposal aimed at increasing the socioeconomic well-being of the entire region and particularly of Spaniards working in Gibraltar and Campo de Gibraltar. She said that Spain was trying to reach an agreement with the United Kingdom in order to implement a new regional cooperation scheme that would improve the daily lives of inhabitants on both sides of the border. She further stated that the mechanism, unlike the defunct "trilateral Forum", would include the participation of local and regional Spanish authorities, in addition to Spain, the United Kingdom and the Gibraltarian authorities. She concluded by saying that Spain would defend the interests of the Spaniards in Campo de Gibraltar, the Spanish district adjacent to the Rock, who were most affected by the problems arising from the colonial situation (see A/C.4/72/SR.3).

56. Furthermore, at the 6th meeting of the Fourth Committee, on 6 October 2017, in a statement in exercise of the right of reply, the representative of Spain said that no agreements on financial questions existed between Gibraltar and any of the member States of the European Union, to which Spain could attest as a member. She further stated that it should be recalled that the so-called self-determination exercise or referendum in which the Gibraltarians had taken part in 1967 had been convened by the administrating Power and condemned by General Assembly resolution 2353 (XXII) as a contravention of the provisions of General Assembly resolution 2231 (XXI) (see A/C.4/72/SR.6).

D. Negotiations between the United Kingdom and Spain

57. Within the framework of the Brussels Process, which is separate from the Forum for Dialogue on Gibraltar, no bilateral negotiations were held in 2017. The Government of the United Kingdom has made it clear, in the preamble to the 2006 Constitution of Gibraltar, that it would "never enter into arrangements under which the people of Gibraltar would pass under the sovereignty of another state against their freely and democratically expressed wishes". Moreover, the United Kingdom has also declared that no sovereignty-related talks can be entered into without the consent of Gibraltar, nor can it enter into a process of sovereignty negotiations with which Gibraltar is not content.

58. For its part, the Government of Spain continued to demand the renewal of bilateral sovereignty talks with the Government of the United Kingdom. It considers that the position of the United Kingdom goes against the doctrine established in the relevant General Assembly resolutions and against the commitment made with Spain in the Brussels Declaration of 1984.

E. Discussions between the United Kingdom and Gibraltar

59. In the communiqué adopted at the sixth meeting of the Overseas Territories Joint Ministerial Council, the United Kingdom and the overseas territories indicated that the principle of equal rights and self-determination of peoples, as enshrined in the Charter of the United Nations, applied to the peoples of the overseas territories. They reaffirmed the importance of promoting the right of the peoples of the territories to self-determination, a collective responsibility of all parts of the Government of the United Kingdom. They committed themselves to exploring the ways in which the overseas territories could maintain international support in countering hostile sovereignty claims. For those Territories with permanent populations who wished it, the United Kingdom would continue to support their requests for removal from the list of Non-Self-Governing Territories.

60. Furthermore, in the same communiqué, the Government of the United Kingdom made clear that the result of the referendum on its membership in the European Union did not change its position on sovereignty over the Territories and underlined that the United Kingdom would never enter into arrangements under which the people of Gibraltar would pass under the sovereignty of another State against their freely and democratically expressed wishes, nor enter into a process of sovereignty negotiations with which Gibraltar was not content.

61. The Governments of the United Kingdom and Gibraltar have both recognized that the Constitution of Gibraltar provides for a modern and mature constitutional relationship between the two sides. The Government of Gibraltar believes it important to review the 2006 Constitution, together with the United Kingdom, to assess what further progress or changes are necessary and appropriate. The review should include the consideration of human rights issues and the question of removal of Gibraltar from the list of Non-Self-Governing Territories. According to the administering Power, in March 2016, the Gibraltar Parliament established a Select Committee on Constitutional Reform in order to assess what changes to the 2006 Constitution were necessary or desirable. While the United Kingdom has expressed its views about the mechanisms for delisting, both Governments note that, under Article 73 *e* of the Charter, the United Kingdom is obliged to continue to submit annual reports until such time as the General Assembly removes a Territory from its list of Non-Self-Governing Territories.

IX. Consideration by the United Nations

A. Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

62. A representative of Spain attended the Caribbean regional seminar, held in Kingstown from 16 to 18 May 2017, and made a statement, as did a representative of Gibraltar (see A/72/23, annex II).

63. The Special Committee considered the question of Gibraltar at its 4th meeting, on 12 June 2017, at which it had before it the 2017 working paper prepared by the Secretariat concerning the Territory (A/AC.109/2017/8). As reflected in the summary record (A/AC.109/2017/SR.4), statements were made by the representative of Spain, the Chief Minister of Gibraltar and a representative of a civil society organization. On the proposal of the Chair, the Committee decided to resume the consideration of the

question at its next session and to transmit the relevant documentation to the General Assembly in order to facilitate the consideration of the question by the Fourth Committee.

B. Special Political and Decolonization Committee (Fourth Committee)

64. The Fourth Committee of the General Assembly considered the question of Gibraltar at its 3rd meeting, on 3 October 2017, at which it heard statements by the representative of Spain and the Chief Minister of Gibraltar. In addition, at the 8th meeting, on 9 October, the representative of the United Kingdom made a statement. At the 2nd, 6th and 8th meetings, held on 2, 6 and 9 October, the representative of the United Kingdom exercised the right of reply, and at the 6th and 8th meetings, the representative of Spain exercised the right of reply (see A/C.4/72/SR.2, 3, 6 and 8).

65. At its 9th meeting, on 10 October, the Fourth Committee adopted without a vote a draft decision on the question of Gibraltar (A/C.4/72/L.7), which was submitted by the Chair of the Committee (see A/C.4/72/SR.9).

X. Action taken by the General Assembly

66. On 7 December 2017, the General Assembly, on the recommendation of the Fourth Committee, adopted, without a vote, decision 72/520, on the question of Gibraltar. In that decision:

The General Assembly, recalling its decision 71/521 of 6 December 2016:

(a) Urged the Governments of Spain and the United Kingdom of Great Britain and Northern Ireland, while listening to the interests and aspirations of Gibraltar that were legitimate under international law, to reach, in the spirit of the Brussels Declaration of 27 November 1984, a definitive solution to the question of Gibraltar, in the light of the relevant resolutions of the General Assembly and applicable principles, and in the spirit of the Charter of the United Nations;

(b) Took note of the position of Spain on this issue, including its proposal to start new discussions on the basis of the Brussels Declaration, and also took note of Spain's presentation of a co-sovereignty offer before the Fourth Committee, on 4 October 2016;

(c) Took note of the position of the United Kingdom on this issue, that was, the commitment never to enter into arrangements under which the people of Gibraltar would pass under the sovereignty of another State against their freely and democratically expressed wishes, nor enter into a process of sovereignty negotiations with which Gibraltar was not content;

(d) Took note of the desire of the United Kingdom to continue with the trilateral Forum for Dialogue;

(e) Took note of the position of Spain that the trilateral Forum for Dialogue did not exist any longer and should be replaced with a new mechanism for local cooperation in which the people of the Campo de Gibraltar and Gibraltar were represented;

(f) Encouraged the United Kingdom and Spain to engage in a constructive and responsive manner, with all relevant and appropriate parties, in order to find common solutions and make progress on issues of mutual benefit.